

REMARKS

By this Amendment, Applicant has amended claims 1, 3, 4, 19, and 20. Support for the amendments can be found in Applicant's specification at, for example, Fig. 45-47 and their relevant descriptions. Claims 1 and 3-20 remain pending, of which claims 1, 3, 4, 19, and 20 under current examination and claims 5-18 withdrawn from consideration.

In the Office Action¹, the Examiner rejected claims 1, 3, 4, 19, and 20 under 35 U.S.C. § 102(e) as being anticipated by Ko (Japanese Patent Publication No. 2000-069352, "Ko"). Applicant respectfully traverses the rejection.

In order to properly establish that Ko anticipates claims 1, 3, 4, 19, and 20 under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, (Fed. Cir. 1989).

Ko fails to disclose each and every element of amended claim 1. For example, Ko fails to disclose "comparing said second exposure time with a second threshold value different from said first threshold value; and making a second decision to take an image in said second mode if said second exposure time is equal to or shorter than said second threshold value," as recited in amended claim 1 (emphases added).

¹ The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action.

The Examiner asserts that “shaking hand full limits” of *Ko* corresponds to the claimed “predetermined threshold value.” Final Office Action at page 3. The “predetermined threshold value” has been amended to “first threshold value” by this Amendment. Even assuming the Examiner’s allegation is correct, which Applicant does not concede, however, *Ko* does not disclose a “second threshold value” different from [a] first threshold value,” as recited in amended claim 1. Further, *Ko* also fails to disclose “making a second decision to take an image in said second mode if said second exposure time is equal to or shorter than said second threshold value,” as recited in amended claim 1 (emphases added).

For at least the above reasons, *Ko* fails to disclose each and every element of and does not anticipate amended claim 1. Claim 1 is therefore allowable, and claims 3 and 4 are also allowable due to their dependence from claim 1.

Independent claims 19 and 20, as amended, although of different scope, recite elements similar to those of claim 1. For at least reasons similar to those discussed above, claims 19 and 20 are allowable over *Ko*.

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge
any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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